

SUBCHAPTER I—SALES REGULATION

PART 622—CONTRACTUAL PROVISIONS

§ 622.103 Dispute provisions.

(a) Except as provided in paragraph (b) of this section, all DOE contracts for the sale of personal property to any organization outside the U.S. Government shall include a Disputes clause which provides for:

(1) Binding final decisions by the Contracting Officer, subject to appeal;

(2) Appeal rights pursuant to the Contract Disputes Act of 1978;

(3) Continuation of performance by the contractor at the direction of the contracting officer pending final resolution of the dispute.

(b) Exceptions:

(1) The provisions of this part shall not apply to contracts for sale of electric power by the Power Marketing Administrations;

(2) The Secretary may exempt a contract or class of contracts from this requirement upon determination that it would not be in the public interest in an individual contract or class of contracts with a foreign government, or agency thereof, or international organization, or subsidiary body thereof, to include the Disputes clause, as permitted by section 3 of the Contract Disputes Act of 1978.

(c) The Energy Board of Contract Appeals (EBCA) has cognizance over disputes relating to DOE Sales contracts.

(d) The Disputes clause in § 624.102-4 shall be used in accordance with this § 622.103.

(Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254))

[46 FR 34559, July 2, 1981]

PART 624—CONTRACT CLAUSES

§ 624.102-4 Disputes.

The following clause shall be used in accordance with the provisions of § 622.103:

DISPUTES

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*). If a dispute arises relating to the contract, the purchaser may submit a claim to the Contracting Officer who shall issue a written decision on the dispute.

(b) *Claim* means:

(1) A written request submitted to the Contracting Officer;

(2) For payment of money, adjustment of contract terms, or other relief;

(3) Which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and

(4) For which a Contracting Officer's decision is demanded.

(c) In the case of disputed requests or amendments to such requests for payment exceeding \$50,000, or with any amendment causing the total request in dispute to exceed \$50,000, the purchaser shall certify, at the time of submission of a claim, as follows:

I certify that the claim is made in good faith, that the supporting data is accurate and complete to the best of my knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Purchaser believes the Government is liable.

(Purchaser's Name) _____

(Title) _____

(d) The Government shall pay the Purchaser interest.

(1) On the amount found due to the purchaser and unpaid on claims submitted under this clause;

(2) At the rates fixed by the Secretary of the Treasury;

(3) From the date the amount is due until the Government makes payment.

(e) The purchaser shall pay the Government interest:

(1) On the amount found due to the Government and unpaid on claims submitted under this clause;

(2) At the rates fixed by the Department of Energy for the payment of interest on past due accounts;

(3) From the date the amount is due until the purchaser makes payment.

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(f) The decision of the Contracting Officer shall be final and conclusive and not subject to review by any forum, tribunal, or Government agency unless an appeal or action is timely commenced within the times specified by the Contract Disputes Act of 1978.

(g) The purchaser shall comply with any decision of the Contracting Officer and at the direction of the Contracting Officer shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal, or action related to this contract.

(Sec. 644, Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254))

PART 625—PRICE COMPETITIVE SALE OF STRATEGIC PETROLEUM RESERVE PETROLEUM

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APPENDIX A TO PART 625—STANDARD SALES PROVISIONS

AUTHORITY: 15 U.S.C. 761; 42 U.S.C. 7101; 42 U.S.C. 6201.

SOURCE: 48 FR 56541, Dec. 21, 1983, unless otherwise noted.

§ 625.1 Application and purpose.

This part shall apply to all price competitive sales of SPR petroleum by DOE. This section provides the rules for developing standard contract terms and conditions and financial and performance responsibility measures; notifying potential purchasers of those terms, conditions and measures; choosing applicable terms, conditions and measures for each sale of SPR petroleum; and notifying potential purchasers of which terms, conditions and measures will be applicable to particular sales of SPR petroleum.

§ 625.2 Definitions.

(a) *DOE*. DOE is the Department of Energy established by Public Law 95-91 (42 U.S.C. 7101 *et seq.*) and any component thereof including the SPR Office.

(b) *Notice of Sale*. The Notice of Sale is the document announcing the sale of SPR petroleum, the amount, type and location of the petroleum being sold, the delivery period and the procedures for submitting offers. The Notice of Sale will specify which contractual provisions and financial and performance responsibility measures are applicable to that particular sale of petroleum, and will provide other pertinent information.

(c) *Petroleum*. Petroleum means crude oil, residual fuel oil or any refined petroleum product (including any natural gas liquid and any natural gas liquid product) owned or contracted for by DOE and in storage in any permanent SPR facility, or temporarily stored in other storage facilities, or in transit to such facilities (including petroleum under contract but not yet delivered to a loading terminal).

(d) *Price Competitive Sale*. A price competitive sale of SPR petroleum is one in which contract awards are made to those responsive, responsible persons offering the highest prices; sales conducted pursuant to rules adopted under section 161(e) of the Energy Policy and Conservation Act (EPCA), Public Law 94-163 (42 U.S.C. 6201 *et seq.*), are not price competitive sales.

(e) *Purchaser*. A purchaser is any person or entity (including a Government agency) which enters into a contract with DOE to purchase SPR petroleum.

(f) *SPR*. SPR is the Strategic Petroleum Reserve, that program of the Department of Energy established by title I, part B of EPCA.

(g) *Standard Sales Provisions*. The Standard Sales Provisions are a set of terms and conditions of sale, which may contain or describe financial and performance responsibility measures, for petroleum sold from the SPR under this part.

§ 625.3 Standard sales provisions.

(a) *Contents*. The Standards Sales Provisions shall contain contract clauses which may be applicable to price competitive sales of SPR petroleum, including terms and conditions of sale, and purchaser financial and performance responsibility measures, or descriptions thereof. At his discretion, the Secretary or his designee may